

**A RESOLUTION BY THE
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

03-~~R~~-1165

**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO
SETTLE THE LAWSUIT STYLED *JERMAINE HARGROVE V.
THE CITY OF ATLANTA, ET. AL.*; CIVIL ACTION NO.
1:01CV597CC; PENDING IN THE UNITED STATES DISTRICT
COURT FOR THE NORTHERN DISTRICT OF GEORGIA.**

WHEREAS on January 25, 2001, Jermaine Hargrove, (hereinafter, Plaintiff) initially filed his lawsuit in the Superior Court of Fulton County, Georgia, and the Defendants subsequently removed the action to the United States District Court for the Northern District of Georgia on March 2, 2002;

WHEREAS Hargrove's Complaint alleged the following violations of federal law: (1) violation of Plaintiff's rights from unreasonable search and seizure under the Fourth Amendment; (2) malicious prosecution and false arrest in violation of the Fourth Amendment; and (3) deprivation of liberty without due process of law under the Fourteenth Amendment. Additionally, Hargrove set forth state law claims for assault and battery, false arrest and malicious prosecution;

WHEREAS the court granted Defendants' Motion with respect to Plaintiff's claims against all defendants under the Fourteenth Amendment. Plaintiff's claims against Defendants City of Atlanta and Mayor Franklin on the issue of municipal liability, and Plaintiff's state law claims for malicious prosecution and intentional infliction of emotional distress. The court denied Defendants' Motion with respect to Plaintiff's Fourth Amendment claims and Plaintiff's state law claims for assault and battery and false imprisonment;

WHEREAS Plaintiff alleges that Defendants violated his constitutional rights under the Fourth Amendment of the United States Constitution and 42 U.S.C. § 1983 as a result of the execution of a search and seizure at the Atlanta Hartsfield Airport. Specifically, Plaintiff alleges that the search, seizure and detention complained of were made without probable cause, thus rendering it invalid under the Fourth Amendment;

WHEREAS the court found that genuine issues of material fact in dispute as to whether Lisa Roey could have reasonably suspected Hargrove of criminal activity on the basis of these observed circumstances. These circumstances described a very large category of presumably innocent travelers, who would be subject to virtually random seizures if the Court was to conclude that as little foundation as there was in this case could justify a seizure;

WHEREAS because the Court found that a genuine issue of fact exist with respect to whether there was sufficient suspicion and probable cause to detain Plaintiff's bag and whether Defendant Roey had probable cause to arrest Plaintiff, Defendant Roey

was not entitled to qualified immunity with respect to Plaintiff's Fourth Amendment claims of the unreasonable seizure of his bag and his arrest.

WHEREAS the City has determined that it is desirable and in the best interests of the City to accept this settlement and execute a Settlement Agreement with Jermaine Hargrove and the City of Atlanta, as well as any Consent Orders with the Court to effectuate the settlement;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, that the City Attorney is authorized to settle the case of *Jermaine Hargrove v. The City of Atlanta, et. al.*; Case No. 1:01CV0597CC; United States District Court for the Northern District of Georgia, for a payment in the total amount of \$35,000.00 to be paid to Jermaine Hargrove and his attorney, Michael Lober;

BE IT FURTHER RESOLVED THAT the Settlement Agreement will not be binding upon the City and the City will incur no liability under it until it has been executed by the Mayor, attested to by the Municipal Clerk, approved by the City Attorney as to form, duly executed by Jermaine Hargrove and the City of Atlanta and delivered to the parties.

BE IT FURTHER RESOLVED THAT the Settlement Agreement shall provide that in exchange for the payment made above, Hargrove releases the City, and its employees and officers including Lisa Roey from any claim which were or which could have been raised in his complaint in the court action;

BE IT FURTHER RESOLVED THAT the Settlement Agreement shall provide that the settlement herein authorized shall not be deemed an admission of liability or wrongdoing on the part of the City of Atlanta or any of its officers or employees, and that Lisa Roey shall be dismissed from the case with prejudice;

BE IT FURTHER RESOLVED THAT the City Attorney is authorized to approve as to form and to execute the Settlement Agreement on behalf of the City of Atlanta and its employees;

BE IT FURTHER RESOLVED THAT the Chief Financial Officer is further authorized and directed on behalf of the City of Atlanta to issue a check on the voucher of the City Attorney in the sum of Thirty-Five Thousand Dollars (\$35,000.00) as the City Attorney directs in conformity with the Settlement Agreement, and to charge such sum to Account No. 1A01-529017-T31001, "Settlements of Suits and Claims."